

OGC 72-0574

21 April 1972

MEMORANDUM FOR: Executive Director-Comptroller
Deputy Director for Plans
Deputy Director for Intelligence
Deputy Director for Support
Deputy Director for Science & Technology

SUBJECT : CIA Implementation of New Executive Order
Which Protects National Security Information

1. This memorandum is to bring to the attention of appropriate officials CIA actions needed under the new Executive Order in the field of protecting national security information.

2. The new Order accomplishes certain fundamental changes in government policy. Some will cause the Agency certain problems; in particular, we will face problems with respect to declassification of documents, both CIA documents and any others for which we have responsibility. The new Executive Order is effective 1 June 1972. A number of actions and decisions by the Agency will be necessary prior to that date. The most difficult problem before us is the development of new Agency regulations to be submitted to the White House for approval by 15 May. Additional actions are required as follows:

a. The Executive Order calls for the implementation by further directives of the President acting through the National Security Council. A working draft of one such directive has been received; Agency comments will be needed early next week.

b. A letter from the Archivist of the United States to the Director asks that an Agency representative "at the Assistant Secretary level" be appointed to work with the Archivist to assist him in discharging his duties under the new Order. The initial meeting of the Archivist with designees of various departments is scheduled for 28 April. A response to the Archivist is needed.

c. The Executive Order calls for an Interagency Classification Review Committee to assist the National Security Council in monitoring the implementation of the Order. This Committee is to be composed of representatives of various named agencies, including the CIA. It will be necessary to select our member.

d. Under the Order, a senior member of CIA must be designated to ensure Agency compliance with the Order and to chair a CIA committee to discharge certain responsibilities under the Order.

e. Under the new Order the Director is the only Agency official authorized to classify information. But the Order also authorizes the Director to delegate classification authority to certain officials. It will be necessary that an appropriate delegation be made by the Director prior to 1 June.

3. The major provisions of the Order to be considered in drafting the Agency regulation are set out below.

a. Classifying

The definitions of "Top Secret", "Secret", "Confidential" and "national security" have been changed and will require appropriate changes in Agency regulations. Also, the Order requires that each classified document indicate on its face the identity of the classifier, unless "the Department involved shall have provided some other method of identifying the individual" who classified it. Procedures to accomplish this requirement will be necessary.

b. Declassification of Information Originating After 1 June 1972

Under the Order all new information automatically declassifies under a General Declassification Schedule (after 10, 8 or 6 years), except when action is taken to exempt information from automatic declassification under that Schedule. Procedures will be required to assure that decisions to exempt or not to exempt are made in timely fashion. Additionally, information exempted from the General Declassification Schedule is automatically declassified at the end of 30 years, unless the Agency head at that time determines that continued classification is required. Here also procedures for timely review will have to be established.

c. Declassification of Information Originating Before
1 June 1972

Under the Order all information not assigned in Group 4 of Executive Order 10501 is exempted from automatic declassification. CIA information is not in Group 4, but other documents in our possession may be. The 30-year automatic declassification provision does apply with respect to pre-June 1972 information. Thus, declassification of the OSS documents in our possession will occur unless the Director acts to continue classification. Since OSS was established in July 1941, our initial reviews under the 30-year rule (to be accomplished in conjunction with the Archivist of the United States) would be addressed to a relatively small quantity of documents. But machinery to systematically consider 30-year-old documents will have to be developed.

d. Systematic Review for Earlier Declassification

Information originating before or after 1 June 1972 is to be systematically reviewed for declassification earlier than required by the General Declassification Schedule. Compliance with the requirement for systematic review of the pre-June 1972 information poses immense problems. Manifestly, it is impossible for the Agency to review every year all Agency records dating back to the previous 30 years. The requirement of the Order in this regard is simply that the forthcoming implementing directive by the President is to conform to the policy that classified "information or material shall be reviewed on a systematic basis for the purpose of accomplishing downgrading, declassification, transfer, retirement and destruction at the earliest practicable date." That draft implements the quoted provision merely by saying that information shall be systematically reviewed "at least annually". Hopefully, the working draft can be modified on this point.

4. I attach a copy of a lengthy summary of the Order (Tab A), together with a copy of the Order itself (Tab B). In accordance with the request of the Executive Director to us, we are preparing a draft of an Agency regulation. We do not need formal comment from addressees, but we will welcome any advice, information or indication of problems or interests of any component.

RECEIVED

LAWRENCE R. HOUSTON
General Counsel

Attachments